

ORDER NO. R9-2021-0141

**ACCEPTANCE OF SETTLEMENT OFFER AND WAIVER OF RIGHT TO A HEARING
FOR
CITY OF SAN MARCOS**

By signing below and returning this Acceptance of Settlement Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), the City of San Marcos (City) hereby accepts the Settlement Offer described in the letter dated June 23, 2021, and titled *Offer to Settle Administrative Civil Liability for Alleged Violations of California State Water Resources Control Board (State Water Board) Order No. 2009-0009-DWQ, NPDES No. CAS000002, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated With Construction and Land Disturbance Activities (CGP) for the San Marcos Creek District Infrastructure Project (Project), WDID No. 9 37C3895799*. The City also hereby waives the right to a hearing before the San Diego Water Board to dispute the alleged violations described in the Settlement Offer and its enclosures.

The City agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the San Diego Water Board to assert jurisdiction over the alleged violations. The City agrees to perform the following:

1. Pay an administrative civil liability in the sum of thirty-two thousand two hundred and fifty-four dollars (\$32,254) made payable to the "State Water Resources Control Board Cleanup and Abatement Account." This payment shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that might otherwise be assessed for violations described in the Settlement Offer and its enclosures.
2. Fully comply with the conditions of the CGP at the Project.

The City understands that by signing this Acceptance and Waiver, the City has waived its rights to contest the allegations in the Settlement Offer and the civil liability amount for the alleged violations. The City understands that this Acceptance and Waiver does not address or resolve any liability for any violation not specifically identified in the Settlement Offer and its enclosures.

Upon execution by the City, the Acceptance and Waiver shall be returned to the following address:

California Regional Water Quality Control Board, San Diego Region
Attention: SM-879900/FMelbourn; R9-2021-0141
Email: SanDiego@waterboards.ca.gov

The City understands that federal regulations require the San Diego Water Board Prosecution Team (Prosecution Team) to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action for violations of an NPDES permit.

Accordingly, this Acceptance and Waiver, prior to being formally endorsed by the San Diego Water Board Executive Officer (acting as head of the Advisory Team), will be published as required by law for public comment.

If no comments are received within the notice period that cause the Prosecution Team to reconsider the Settlement Offer, then the Prosecution Team will present this Acceptance and Waiver to the San Diego Water Board's Executive Officer for formal endorsement on behalf of the San Diego Water Board.

The City understands that if significant comments are received in opposition to the settlement, then the offer may be withdrawn by the Prosecution Team. If the Settlement Offer is withdrawn, then the City will be notified and the City's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. The unresolved violation(s) will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued, and the matter may be set for a hearing.

The City understands that once this Acceptance and Waiver is formally endorsed by signature of the Executive Officer, then the full payment is a condition of this Acceptance and Waiver and will be due within 30 days of the date of the invoice.

I hereby affirm that I am duly authorized to act on behalf of and to bind the City in the making and giving of this Acceptance and Waiver.

JACK GRIFFIN
City Manager

IT IS SO ORDERED, pursuant to Water Code section 13385.

DAVID W. GIBSON
Executive Officer